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VIA ECFS

June 29, 2006

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *MB Docket No. 03-15*
Sunbelt Television, Inc. (FRN 0007-9408-10)
Station KHIZ-DT, Barstow, California (Facility ID No. 63865)
Request for Waiver of July 1, 2006 Maximization Deadline

Dear Ms. Dortch:

This letter is submitted on behalf of Sunbelt Television, Inc. ("Sunbelt"), licensee of KHIZ, Channel 64, and permittee of KHIZ-DT, Channel 44, Barstow, California, pursuant to the procedures established in the Commission's June 14, 2006, *Public Notice*, DA 06-1255. By this letter, Sunbelt requests a waiver of the July 1, 2006 "use-it-or-lose-it" maximization deadline ("Maximization Deadline") established in the Commission's September 7, 2004 *Report and Order* in MB Docket No. 03-15.[1] Sunbelt requests a waiver of the use-it-or-lose-it deadline for six months (consistent with the duration of a waiver set forth in the *Report and Order* (para. 87) and the *Public Notice* (pages 1-2)).

I. DISCUSSION

KHIZ-DT was assigned channel 44 in the Table of Allotments established by the Commission in Section 73.622(b) of its rules, 47 C.F.R. § 73.622(b) (2004). Pursuant to a construction permit to maximize its digital facilities, granted January 8, 2004, Sunbelt was authorized to operate KHIZ-DT on Channel 44 with a maximum effective radiated power

[1] *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, FCC 04-192, 19 FCC Rcd 18279 (2004) ("Report and Order"). In the Report and Order, the Commission generally established a July 1, 2006 construction deadline for stations not in markets 1-100 and for stations in markets 1-100 that are not affiliated with the top four networks to retain interference protection within their maximization service areas. KHIZ is located in the Los Angeles market, but is not affiliated with a top four network. Also, because July 1st is a Saturday, the filing deadline is July 3, 2006. *Public Notice* at 2 n. 7.

("ERP") of 1000 kw.[2] Pursuant to a grant of special temporary authority ("STA") subsequently renewed two times, the Commission authorized KHIZ-DT to operate at reduced power. The initial STA was granted December 27, 2004.[3] The most recent STA grant was issued on April 4, 2006, with an expiration date of July 1, 2006, which coincides with the Maximization Deadline.[4] By public notice issued June 23, 2005, the Media Bureau announced that KHIZ-DT tentatively was granted Channel 44 as its permanent digital channel.[5]

Sunbelt requests a waiver of the July 1, 2006 deadline by which certain station licensees that requested their current digital channel in the digital channel election process must construct full, authorized facilities.[6] Sunbelt has been working diligently to construct full, authorized maximized digital television facilities; but it is necessary that Sunbelt request an extension of the Maximization Deadline.

II. OVERVIEW

The following is a discussion of the significant progress station KHIZ-DT has made to date to maximize its digital operations pursuant to its authorization as well as the extenuating factors which have caused delays in the completion of full power DTV facilities for KHIZ. KHIZ's planning efforts to maximize its digital operation began shortly after it completed construction of its temporary digital facilities in January, 2005. Intensive planning, investigation, engineering and ordering work began in August of 2005. At present, KHIZ has ordered equipment needed to complete its full-power facility, including a new heavy duty tower to accommodate both digital and analog antennas, and is expecting an imminent approval of a building permit to construct a new 512 foot tower at its tower location. Construction is expected to be completed well before the expiration of the requested 6-month extension period.

III. FACTORS CONTRIBUTING TO REQEUST FOR EXTENSION

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[2] *See* CDBS File No. BPCDT-19991028ACX.

[3] *See* CDBS File No. BDSTA-20041217AYC.

[4] *See* CDBS File No. BEDSTA-20051223ACH.

[5] *Public Notice: DTV Tentative Channel Designations for 1,554 Stations Participating in the First Round of DTV Channel Elections*, DA 05-1743, Attachment 1 (June 23, 2005).

[6] Because the existing tower used for both analog and low power DTV operations is being torn down and replaced, STA requests are being submitted to operate both the analog and DTV operations temporarily at a nearby location.

Summary

- Difficult to access site, with unusual terrain.
- Initially investigated guyed tower, which proved unfeasible.
- Very tall tower for existing site, requires massive foundation work stretching from edge-to-edge of mountain.
- Massive planning and engineering due to unusually extreme weather (temperature extremes, high winds), geology and seismic proximity.
- Specialized drilling equipment needed for core sampling.
- Dual-track permit process needed with County (Conditional Use Permit ("CUP")/Zoning Variance needed in addition to Building Permits).
- Must remove existing tower before building new one.
- Due to height and site constraints, construction requires relocation of some electrical utilities and specialized construction rigging.

Design

KHIZ requested approval in its maximization application of a 512-foot tower. This required designing, constructing and erecting a tower nearly three-times as tall as the existing one. KHIZ's existing tower site is a small parcel of land on top of Quartzite Mountain near Victorville, California, which is difficult to access and which has a limited area.

KHIZ was able to locate a pre-built triangular-based guyed-tower in July 2005 that was the needed height. It was determined that, if this guyed tower could be utilized at the existing site, KHIZ would save significant expense and would be able to construct the tower several months earlier than if a self-supporting tower was needed. KHIZ and its supporting engineers spent over two months investigating the engineering, geology/soils, permit and site lease ramifications of the guyed tower. Unfortunately, due to the unusual topography of the tower site, the three guy wires could not be anchored at sufficient radial distances from the tower without extreme distances in guy wire length. Therefore, it was determined that a self-supporting tower was the only practicable solution. The engineering, geology/soils, permit and site work had to be restarted in October, 2005 with a self-supporting tower in mind.

Construction of a 512-foot self-supporting tower on the existing site poses multiple complexities, particularly for the necessary foundation. The site is approximately 60-feet by 100-feet, meaning that the tower base must reach right to the edge of the mountain. The site – and foundation – are subject to large temperature swings, severe electrical storms, seismic activity and high wind-shear. Careful and thorough examination by geology/soils experts, professional tower and foundation engineers was therefore required.

KHIZ proceeded by engaging top engineering and consulting firms to work on the project.

- Terracon was engaged to perform core sampling, geology/soils work and foundation planning.
- KPFF Engineering was engaged to design the tower and work with Terracon on the foundation plans.
- Calvada Surveying was engaged to perform a complete topographical survey of the site.

Due to the difficulty of accessing the site, specialized drilling rigs were needed to dig multiple 20-ft deep core samples from the site. This added several weeks of delay as several potential drilling companies visited the site to determine whether they could perform the work. Terracon was then selected to perform the drill sampling process on March 3rd. Terracon engaged a group out of Seattle, WA to do the sampling, which occurred on March 13th. Analysis took an additional two weeks. Until the core samples were analyzed, designs could not be finalized, permits could not be applied for and construction could not start.

After initial investigations, it was determined that the site was not large enough to support both the new and the existing tower. This added several weeks to the construction timeframe because it became necessary to dismantle the existing tower prior to beginning foundation work at the site in preparation for the new tower.

Building Permit Process

In September 2005, the consulting firm of David Moss & Associates was engaged to coordinate all land-use and building permit processes for KHIZ. The permit processes proved to be more lengthy and difficult than anticipated.

In October and November, Moss & Associates simultaneously had to investigate the permit processes for both free-standing and guyed tower possibilities. Once determined, they began preparing permit applications and visual impact studies.

In February 2006, a meeting was held with the San Bernardino County building department. Even though KHIZ had received a determination of "no-hazard" from the FAA on its 512-ft tower, the County requested that additional written confirmation be obtained from Edwards AFB (USAF) and any other air facilities nearby that the proposed tower would not present problems. Moss & Assoc. contacted these facilities and obtained such confirmations.

Additionally, the County confirmed that KHIZ would need to obtain both (i) a building permit for this type of facility and (ii) an administrative CUP and Major Variance, since the new height would exceed the county zoning limit. A public review process (including 30-day notice

period) would be required. The County also estimated that the building permit process would run 6-12 weeks.

KHIZ attempted to submit an application for CUP/Variance on May 5th, but due to a death in the family of the County intake planner, that was delayed by 1-2 weeks. The building permit application was submitted to the County on May 16th. Final approval is expected in the next two weeks.

Construction

Construction will take slightly longer than normal due to (i) the space limitations at the site, (ii) the difficulty of getting large equipment or vehicles to the site, (iii) the need for specialized rigging equipment during tower build, and (iv) the need to temporarily relocate electrical utilities (overhead power lines).

IV. PROGRESS TO DATE

Summary

- All engineering / design work complete for foundation, tower, antenna, etc.
- Equipment has been specified and ordered - $1.2 million worth of equipment ordered.
- More than $800,000 paid as tower and equipment deposits.
- Approximately $300,000 spent to date in engineering and land-use consulting fees.
- Approximately $25,000 worth of building and grounds improvement contracted for and underway at the transmitter/tower site.
- Applied for and received tentative approvals on CUP/Zoning Variance for new tower, as well as foundation and tower building permits.

Current Status/Construction Plan

It is important to note that the equipment for the build-out has been ordered and is ready to be delivered, including the tower, transmitter and antenna. KHIZ expects to begin construction as soon as it receives the Building Permit from San Bernardino County, which is expected on or around July 3rd. KHIZ cannot begin new tower construction until the permits are issued and the current tower is removed.

With all the engineering work complete, the next step will be to prepare the foundation. The preparation of the ground for concrete pouring is anticipated to begin during early July. The company that has been hired to demolish the current tower will begin its work, which will

include removing the existing digital and analog antennas – which will be reused – and tearing down the tower structure. At the same time, the temporary digital and analog facilities will be erected.[7] Once complete (about 2 weeks), the drilling and digging will begin for the three foundation pads. It is expected that the concrete foundation will be poured during July. The concrete must cure for 28 days before achieving maximal hardness.

During that period, the new Axcera transmitter will be installed, and the transmitter building will receive additional HVAC and electrical equipment. Overhead power lines will be moved in preparation for the tower construction. The many sections of the new tower will be moved to the site, while the rigging/crane needed to erect the tower will be readied. The company that will do tower construction has already been engaged.

Beginning in August, new tower erection should commence. It is expected to take 3-4 weeks to complete the tower construction, installation of transmission line and antennas. It is expected that another 3-7 days will be spent tuning the transmitter and related equipment. KHIZ hopes to complete construction in October.

CONCLUSION

Sunbelt requests a six month waiver beyond July 1, 2006. The grant of this extension of time will allow KHIZ-DT to maintain its service protection. In light of the actions that Sunbelt already has taken and the importance of stations maximizing their digital coverage, Sunbelt submits that the public interest will be served by grant of the requested waiver.

Please contact Sunbelt's undersigned attorneys if you have any questions.

Sincerely,

/s/
Kenneth E. Satten
Timothy J. Cooney

cc: Shaun Maher

[7] As noted above, requests for special temporary authority to operate KHIZ's analog and digital facilities are being filed with the FCC.